

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE BOSTON SCIENTIFIC CORPORATION
SECURITIES LITIGATION

Master File No. 1:05-cv-11934 (DPW)

**PLAINTIFF'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS
IMPROPERLY CLAIMED AS PRIVILEGED**

Pursuant to Federal Rule of Civil Procedure 37, and Local Rule 37.1, Lead Plaintiff Public Employees' Retirement System of Mississippi ("Plaintiff") moves to compel the production of documents improperly withheld by Defendants. As explained in the accompanying memorandum of law, Defendants have improperly withheld categories of documents that are not attorney-client privileged or work-product protected. The categories of documents which Plaintiff believes have been improperly withheld are:

- Documents associated with the Company's fall 2004 internal Taxus recall investigation conducted.
- Documents where no attorney is listed on the privilege and redaction logs as having authored or received the document.
- Documents where an attorney is merely a cc or one of numerous recipients.
- Documents which the privilege and redaction logs do not indicate any legal advice was given or received but where document is described as "reflecting" legal advice or relaying or requesting "information necessary to provide legal advice."

Wherefore, Plaintiff requests that Defendants be ordered to immediately produce all of the documents they are improperly withholding in these categories of documents. In the alternative, Plaintiff requests that the Court refer this matter to the Magistrate Judge or appoint a Special Master to evaluate, for the purpose of determining whether Defendants' claims of privilege are valid, all of the documents on Defendants' privilege and redaction logs that fit these categories of documents.

REQUEST FOR ORAL ARGUMENT

Plaintiff believes that oral argument may assist the Court with the determination of this motion and presents its request for oral argument pursuant to Local Rule 7.1(d).

Dated: May 22, 2009

Respectfully submitted,

ZIMMERMAN REED, P.L.L.P.

s/ Patricia A. Bloodgood

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CONFERENCE PURSUANT TO LOCAL RULE 7.1(a)(2)

The undersigned hereby certifies pursuant to Local Rules 7.1(a)(2) that the parties have repeatedly conferred in an effort to resolve or narrow the issues in dispute as set forth in more detail in the accompanying memorandum of law.

CERTIFICATE OF SERVICE

I, Patricia A. Bloodgood, hereby certify that on May 22, 2009, I caused PLAINTIFF'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS IMPROPERLY CLAIMED AS PRIVILEGED to be filed through the ECF system, and that copies of this document will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

Dated: May 22, 2009

s/ Patricia A. Bloodgood
Patricia A. Bloodgood